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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,080	10/29/2003	Gerard J. Matern	LGPL.110510	5934
5251 7590 08/22/2007 SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY, MO 64108-2613			EXAMINER KRAUSE, JUSTIN MITCHELL	
			ART UNIT 3682	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/696,080

Applicant(s)

MATERN ET AL.

Examiner

Justin Krause

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14 and 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,16-21 and 23-30 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-30 are rejected under 35 U.S.C. 102(b) as anticipated by Miotto (US Patent 6,213,552).

Miotto discloses a chair adjustment mechanism comprising:

- a rotatable cam (254) rotatable between a first limit stop (Fig 9) and a second limit stop (Fig 10);

- a slidable bearing member (228) perpetually bearing against said cam;

one of said cam and said slidable bearing member includes a protuberance (260) and the other of said cam and said slidable bearing member includes a corresponding indentation (262)

a sliding bearing member sliding in a direction, when the cam is at a second rotation limit and between the first and second rotation limits the protuberance extends within the indentation. As the protuberance does not instantaneously leave the indentation, as the cam rotates from the second limit stop towards the first limit stop, the protuberance remains extended in the indentation.

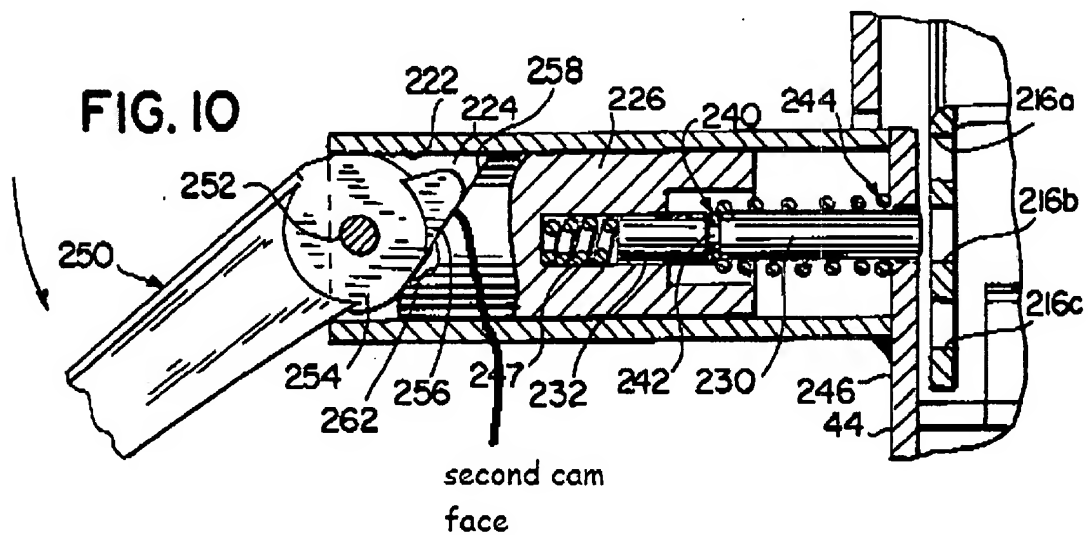
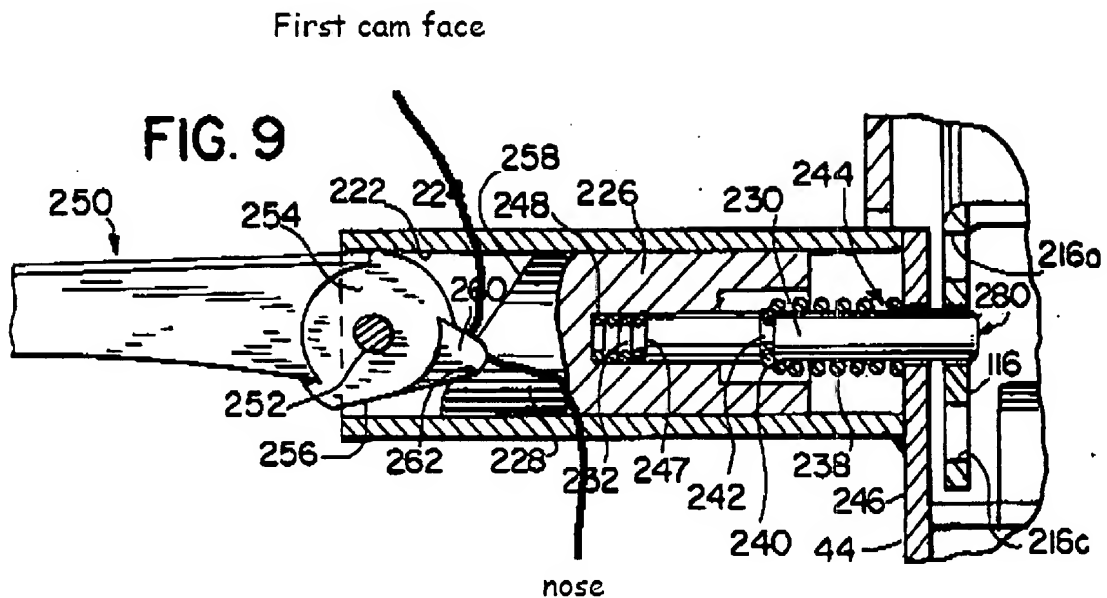
Regarding claim 24, the join comprises an indentation (262) on the bearing member and a protuberance (260) on the cam.

Regarding claim 25, the cam has a nose, the protuberance is located at the nose.

Regarding claim 26, an abutment (246) is perpetually bearing against a side of the bearing member opposite the cam, translation of the bearing member resulting in the bearing member sliding against the abutment member. The limitation that the translation results in the bearing member sliding against the abutment is considered functional language. The device is capable of performing the claimed function. See MPEP 2114).

Regarding claim 27, the bearing member is a bearing plate.

Regarding claim 28, when the cam is in the first position, a first cam face abuts the bearing plate, when the cam is in a second position, a second cam face abuts the bearing plate, said nose being between the first and second cam faces. (see Figure below)



Regarding claim 29, the cam is rotatably fixed on a pivot (252).

Regarding claim 30, the bearing member has a surface (258) engaging the cam and an opposite surface slidably engaging an abutment.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pernicka (US Patent 5,676,425) in view of Miotto (US Patent 6,213,522).

Pernicka discloses a chair adjustment mechanism comprising:

- A cam (76) rotatably fixed on a horizontal pivot (84)

- a vertically slidable bearing member (94, the point of contact slides vertically as the cam moves) having a surface engaging said cam and an opposite surface slidably engaging an abutment (64);

- the pivot is horizontally slidable

- a compression member (72) biases the cam against the slidable bearing member and the slidable bearing member against the abutment

- Pernicka does not disclose one of said cam and said slidable bearing member including a protuberance (260) and the other of said cam and said slidable bearing member including a corresponding indentation (262) which forms a joint with said protuberance.

Miotto teaches one of said cam and said slidable bearing member includes a protuberance (260) and the other of said cam and said slidable bearing member includes a corresponding indentation (262) which forms a perpetual join with said protuberance to serve a locking function.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a protuberance into the cam or slidable bearing member and a corresponding indentation into the other of the cam or slidable bearing member to serve a locking function.

Regarding claim 2, a compression member (54) is arranged to bias the cam against the slidable bearing member, and said slidable bearing member against the abutment.

Regarding claim 3 a support wall (18) retains the abutment in position.

Regarding claim 4, the compression member receives the pivot and is biased relative to the support wall to bias the cam against the slidable bearing member and the slidable bearing member against the abutment.

Regarding 5, the compression member is biased away from the support wall by a spring (72).

Regarding claim 6, the compression member is movable by rotation of the cam and compression member is arranged to switch a mechanism upon such movement.

The device's arrangement to switch a mechanism is considered functional language. The device of Pernicka is capable of performing this function and in fact, does perform this function. See MPEP 2114.

Claims 23, 29, 30, 8-12 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pernicka (US Patent 5,676,425) in view of Miotto (US Patent 6,213,522).

Regarding claim 23, Pernicka discloses a chair adjustment mechanism comprising:

- A rotatable cam (76) rotatable between a first limit stop (fig 4) and a second limit stop (fig 5) ;

- a slidable bearing member (94) perpetually bearing against said cam;

Pernicka does not disclose one of said cam and said slidable bearing member including a protuberance (260) and the other of said cam and said slidable bearing



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member including a corresponding indentation (262) which forms a joint with said protuberance, when the cam is at a second rotation limit and between the first and second rotation limits the protuberance extends within the indentation.

Miotto teaches one of said cam and said slidable bearing member includes a protuberance (260) and the other of said cam and said slidable bearing member includes a corresponding indentation (262) which forms a perpetual join with said protuberance to serve a locking function. As the protuberance does not instantaneously leave the indentation, as the cam rotates from the second limit stop towards the first limit stop, the protuberance remains extended in the indentation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a protuberance into the cam or slidable bearing member and a corresponding indentation into the other of the cam or slidable bearing member to serve a locking function. The protuberance of Miotto

Regarding claim 29, the cam of Pernicka is rotatably fixed on a pivot (84).

Regarding claim 30, the bearing member of Pernicka has a surface engaging the cam and an opposite surface slidingly engaging an abutment (94).

Regarding claim 8, a compression member of Pernicka (54) is arranged to bias the cam against the slidable bearing member, and said slidable bearing member against the abutment.

Regarding claim 9, a support wall (18) retains the abutment in position.

Regarding claim 10, the compression member receives the pivot and is biased relative to the support wall to bias the cam against the slidable bearing member and the slidable bearing member against the abutment.

Regarding 11, the compression member is biased away from the support wall by a spring (72).

Regarding claim 12, the compression member is movable by rotation of the cam and compression member is arranged to switch a mechanism upon such movement.

The device's arrangement to switch a mechanism is considered functional language. The device of Pernicka is capable of performing this function and in fact, does perform this function. See MPEP 2114.

Regarding claim 14, the bearing member comprises a slidable bearing plate.

Regarding claim 15, the cam includes first and second faces (78, 80), and the first and second rotational positions are defined by engagement of the first and second cam faces with the bearing member, forming first and second positions, respectively.

Regarding claim 16, a compression member (54) is arranged to bias the cam against the slidable bearing member, and said slidable bearing member against the abutment.

Regarding claim 17, a support wall (18) retains the abutment in position.

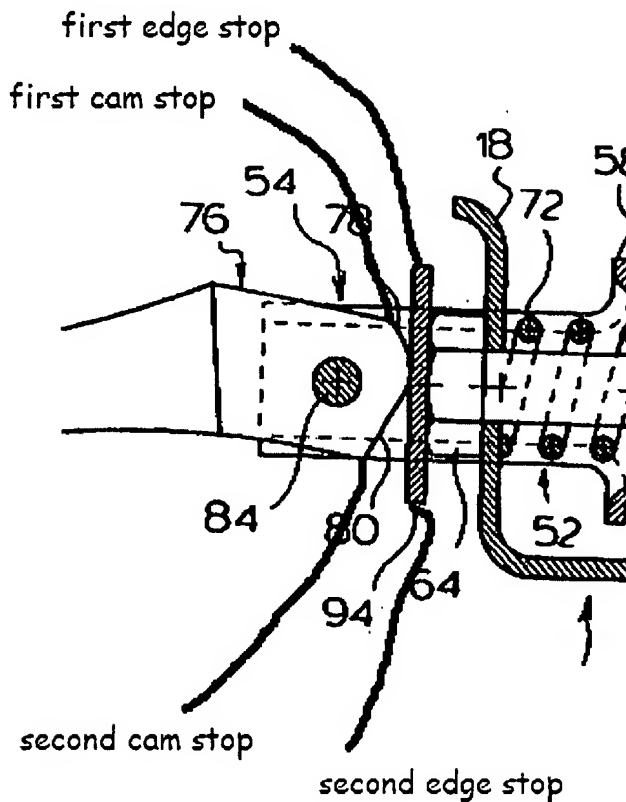
Regarding claim 18, the compression member receives the pivot and is biased relative to the support wall to bias the cam against the slidable bearing member and the slidable bearing member against the abutment.

Regarding claim 19, the compression member is movable by rotation of the cam and compression member is arranged to switch a mechanism upon such movement.

The device's arrangement to switch a mechanism is considered functional language. The device of Pernicka is capable of performing this function and in fact, does perform this function. See MPEP 2114.

Regarding claim 20, the slidable bearing plate includes first and second edge stops capable of being configured to define sliding limits for the slidable bearing plate.

Regarding claim 21, first and second cam stops are arranged to define a first and second rotational limit by engaging the edge stops.



### ***Allowable Subject Matter***

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed May 31, 2007 have been fully considered but they are not persuasive.

The amendments to the independent claims, under a broad and reasonable interpretation, fail to overcome the prior art of record.

As noted in the rejections above, regarding claim 1, the point of contact between the cam and bearing member slides vertically, satisfying the limitation "vertically slidable bearing member" as broadly, a bearing can be a surface, point or other feature through which a load is transferred.

Regarding claim 23, further definition of the limitation where the protuberance extends within the indentation is suggested. As written currently in conditional form, the limitation may be satisfied the protuberance extending into the indentation at either limit stop and by any single point between the first and second limit stop.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JMK

  
RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER